IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1773 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

INDUMATIBEN SHKARCHAND
Versus
SPECIAL LAND ACQUISITION OFFICER

Appearance:
1. Special Civil Application No. 1773 of 2003
MR GM AMIN for Petitioner No. 1-3
MR AJ DESAI, AGP.for Respondent No. 1-2

CORAM : MR.JUSTICE N.G.NANDI
and
MR.JUSTICE D.A.MEHTA

Date of decision: 10/03/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE N.G.NANDI)

1 In this petition under Article 226 of the Constitution of India the petitioners have been praying for a direction to the respondent to declare the award under section 28A of the Land Acquisition Act.

2 It is the say of the petitioners that the petitioners are owners and occupiers of the land bearing survey nos.413/1, 388, 437, 416, 417/2 & 417/1 situated in the outskirts village Harsoli, Taluka Dehgam, Dist.Gandhinagar; that vide Notification under Section 4(1) of the Land Acquisition Act (hereinafter referred to as 'the Act') came to be published in respect of the aforesaid land for the purpose of Narmada Land Canal. After the issuance of Notification under Section 6 of the Act, the award under Section 11 of the Act came to be declared/pronounced. Some of the claimants made a request for reference to the Civil Court under Section 18 of the Act and consequently as regards other claimants references came to be made under Section 18 of the Act. That the Reference Court enhanced compensation in respect of the land of the other claimants by judgment dated 31/1/2002; that the Reference Court awarded additional compensation at the rate of Rs.30.90 per sq.mt. and Rs.31.60 per sq.mt. over and above the compensation granted at the rate of Rs.2.10 & Rs.1.40 per sq.mt. The petitioners having found the other claimants have been awarded enhanced compensation by Reference Court, moved an application on 7.7.2002 under Section 28A of the Act, claiming additional compensation enhanced by the Reference Court under Section 18 of the Act in respect of the References preferred by the other claimants.

3 On the instructions from Mr.D.K.Rathod, Special Land Acquisition Officer, Narmada Yojana, Unit No.3, Ahmedabad it is stated by Mr.A.J.Desai, learned AGP. that the State Government has decided to accept the judgment passed by the Reference Court enhancing compensation as stated above and that the respondent Government is not to file appeal against the order passed by the Reference Court under Section 18 of the Act granting additional compensation as aforestated.

4 It is further submitted by Mr.Desai that since the Government has decided not to challenge the order passed by the Reference Court enhancing compensation as above the respondent would make the award under Section 28A of the Act as requested by the petitioner within eight weeks from today.

5 As stated above, the learned Assistant Government Pleader has made a statement on instructions of the concerned Special Land Acquisition Officer that the order passed by the Reference Court is accepted by the State Government and the same is not to be challenged by the State Government any further and that the application under Section 28A of the Act preferred by the petitioner would be disposed of within eight weeks from today. In our opinion, no order is necessitated in this petition and the same can be disposed of as not survive having regard to the aforesaid statement made by the learned AGP.

6 In view of the above the petition is rejected as not survive and in view of the above statement made by Mr.A.J.Desai, learned AGP. the respondent- State shall pronounce the award under Section 28A of the Act on the application preferred by the present petitioners within eight weeks from today. Rule discharged. There shall be no order as to costs.

(N.G.Nandi,J) (D.A.Mehta, J)

m.m.bhatt